



Agilent Docket No. 10010679-1
PATENT

1200 DAE
#8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Corzine *et al.*

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Art Unit: 2828

Application No. 10/042,590

OCT 30 2003

Examiner: Vy, Hung T.

Filing Date: January 9, 2002

OFFICE OF THE SPECIAL
PROGRAMS EXAMINER

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Confirmation No. 16631

For: VERTICAL-CAVITY SURFACE-
EMITTING LASER INCLUDING A
SUPPORTED AIRGAP DISTRIBUTED
BRAGG REFLECTOR

OCT 30 2003

OFFICE OF THE SPECIAL
PROGRAMS EXAMINER

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT
TO 37 C.F.R. §1.135(c), M.P.E.P. § 508.03 and § 711.03(c)**

Mail Stop Petition
Commissioner of Patent
P.O. Box 1450
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C.
CUSTOMER NO. 23859

September 16, 2003

In response to the Notice of Abandonment dated August 29, 2003, Applicants respectfully petition to withdraw the holding of abandonment.

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SEP 29 2003
TECHNOLOGY CENTER 2800

AUTHORIZATION TO DEBIT ACCOUNT

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 14-0629.

I hereby certify that this correspondence is being deposited with the United States Postal Service, as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

Date: 9-16-03

Signature - Tasha Jones

On February 28, 2003, Applicants timely filed a Response to a Non-final Office Action dated February 12, 2003, which established a one-month period for response. A copy of the Response filed February 28, 2003 is attached hereto. However, Applicants erroneously stated the application number on the Response filed February 28, 2003 as "10/041,590," while the correct application number is "10/042,590." In addition to the application number, Applicants included in the caption for the Response filed February 28, 2003, the Art Unit 2828, the Examiner's name, Vy, Hung T., and the title "Vertical-Cavity Surface-Emitting Laser Including a Supported Airgap Distributed Bragg Reflector."

Although Applicants misstated the application number, Applicants respectfully submit that, pursuant to M.P.E.P. §508.03(II) entitled "Unmatched Papers Having an Application Number," if either the Technology Center number or the application number on a paper is incorrect, and if the paper includes the name of an Examiner in the Technology Center, the USPTO should have made "a careful check of the TC records and files as well as consultation with the indicated examiner ... to determine the correct application number. If this does not yield a new application number, the paper should be sent to the PCO." Therefore, Applicants respectfully submit that Applicants' mistake in misstating the application number was compounded by the USPTO's failure to attempt to match the Response dated February 28, 2003 with the proper file pursuant to M.P.E.P. §508.03(II).

Furthermore, 37 C.F.R. §1.5, entitled "Identification of Application, Patent or Registration," states that:

"[a]ny correspondence not containing such identification [referring to the application number, or the serial number and filing date assigned to that application, or the international application of the international application] will be returned to the sender where a return address is available. The returned correspondence will be accompanied by a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two (2) weeks of the mailing date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence.

Applicants respectfully submit that the Response submitted on February 28, 2003, bearing the incorrect application number was never returned to the Applicants or to the Applicants' representative.

Therefore, Applicants respectfully request that the holding of abandonment be withdrawn, and that a new Office Action on the merits be forwarded to the Applicants. Furthermore, Applicants respectfully submit that no Petition fee is believed to be due in this matter. However, if a Petition fee is due, Applicants authorize such fee to be deducted from Deposit Account Number 14-0629.

NEEDLE & ROSENBERG, P.C.

CUSTOMER NUMBER 23859

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